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FORSYTH CO, NC FEE \$32.00

PRESENTED & RECORDED:

04-09-2008 03:40 PM

KAREN GORDON

REGISTER OF DEEDS

BY: LORA SMALL

DPT

BK: RE 2824

PG: 1604-1610

Drafted by: George E. Hollodick
 Return to: Blanco Tackabery Box #52

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT ("Agreement"), made this 3rd day of April, 2008 between **Z. SMITH REYNOLDS FOUNDATION, INC.**, a North Carolina non-profit corporation ("Lessee") and **SOUTHERN COMMUNITY BANK AND TRUST**, a North Carolina bank, its successors or assigns, including, without limitation, any purchaser or successor to the Bank after the Bank has exercised its remedies under the Deed of Trust described below, at foreclosure sale or otherwise ("Bank").

Statement of Purpose

Bank is the owner and holder of a Deed of Trust (Future Advance), Assignment of Leases, Rents and Profits, Security Agreement and Fixture Financing Statement to be recorded in the Forsyth County, North Carolina Registry (the "Deed of Trust") granted by Copper Top Ventures, LLC ("Borrower"), on the real estate (a legal description of which is attached hereto as Exhibit A and incorporated herein by this reference [the "Land"]) located in Winston-Salem, North Carolina (the "Loan").

~~Exhibit not attached which presented for recordation~~

Borrower [or Borrower's predecessor-in-interest], as Landlord, executed a Lease dated September, 2002, as subsequently amended by Lease Amendment dated October, 2006 (the "Lease") with Lessee with respect to a portion of the Land (the "Premises").

It is a condition to the Loan that the Deed of Trust shall unconditionally be and remain at all times a lien or charge upon the Land, prior and superior to the Lease and to the leasehold estate created thereby.

Lessee and Bank desire to confirm their understanding with respect to the Lease and Deed of Trust as set out below.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Agreement

1. The Lease is and shall continue to be subject and subordinate to the Deed of Trust and to all renewals, modifications, consolidations, replacements or extensions thereof, and to all future advances made thereunder. Lessee acknowledges that the Deed of Trust contains an assignment of Borrower's interest in the Lease and that upon written demand of Bank, Lessee shall pay all rents and other sums due under the Lease to Bank instead of to Borrower. Borrower joins in the execution of this Agreement to acknowledge and consent to the foregoing. In no event shall any exercise of Bank's remedies, expressly including foreclosure, under the Deed of Trust, trigger any right of Lessee under the Lease, including, without limitation, Lessee's right of first refusal; provided, such right of first refusal shall not be affected by any such foreclosure or deed-in-lieu of foreclosure.

2. So long as Lessee is not in default (beyond any period given Lessee to cure any such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Lessee's part to be performed, or is not in default under this Agreement, Lessee's possession of the Premises and Lessee's rights and privileges under the Lease, or any extension of renewals of the Lease which may be effected in accordance with any option therefore in the Lease, shall not be diminished or interfered with by Bank and Lessee's occupancy of the premises shall not be disturbed by Bank for any reason whatsoever during the term of the Lease or any extensions or renewals.

3. If the interests of Borrower, its successors or assigns, shall be transferred to and owned by Bank (which term shall include Bank's successors or assigns) by reason of foreclosure or other proceedings brought by it or by any other manner, and Bank succeeds to the interest of the Borrower, its successors or assigns, under the Lease, Lessee shall be bound to Bank under all of the terms, covenants and conditions of the Lease for the balance of the term remaining and any extensions or renewals which may be affected in accordance with any option in the Lease, with the same force and effect as if Bank were the original lessor under the Lease. Lessee hereby agrees to attorn to Bank as its lessor under the Lease, the attornment to be effective and self-operative without the execution of any further instruments on the part of either of the parties immediately upon Bank succeeding to the interest of Borrower, its successors or assigns, under the Lease; provided, however, that Lessee shall be under no obligation to pay rent to Bank as lessor, pursuant to this Agreement until Lessee receives written notice from Bank. The respective rights and obligations of Lessee and Bank upon the attornment, to the extent of the remaining balance of the term of the Lease and any such extensions and renewals, shall be the same as now set forth in the Lease; it being the intention of the parties for this purpose to incorporate the Lease in this Agreement by reference.

4. Lessee certifies that the Lease is presently in full force and effect and represents the entire agreement between Borrower (and/or its predecessor-in-interest) and Lessee, and has not, in any way, been amended, modified, assigned or sublet; that no rent under the Lease has been paid more than thirty (30) days in advance of its due date; and that Lessee, as of this date, has no charge, lien or claim of offset under the Lease, or otherwise against the rents or other amounts due or to become due.

5. If Bank shall succeed to the interest of Borrower, as lessor, under the Lease, Bank shall be bound to Lessee under all terms, covenants and conditions of the Lease. Lessee shall have the same remedies against Bank for the breach of an agreement contained in the Lease that Lessee would have had under the Lease against Borrower if Bank had not succeeded to the interest of Borrower; provided further, however, that Bank shall not be:

- (a) liable for any act or omission of any prior landlord (including Borrower), except for any act or omission that shall continue beyond the time the Bank

shall succeed to the interest of Landlord of which the Bank has been given prior written notice (whether by estoppel certificate or otherwise); or

- (b) subject to any offsets or defenses which the Lessee might have against any prior landlord (including Borrower); or
- (c) bound by any rent or additional rent which Lessee might have pre-paid more than 31 days in advance; or
- (d) bound by an amendment or modification of the Lease made without Bank's consent; or
- (e) obligated to construct or finish the construction of any improvements or any part thereof unless it expressly assumes such obligation in writing after it succeeds to the interest of the Borrower under the Lease; or
- (f) liable for return of any security deposit unless such deposit has been delivered to the Bank; or
- (g) personally liable under the Lease, Bank's liability being limited to Bank's interest in the Land including insurance and condemnation proceeds; or
- (h) bound by any indemnity of Borrower (or its predecessor-in-interest) in favor of Lessee with respect to hazardous materials used, stored, disposed of or transported at the Land.

6. Lessee agrees to execute such other and further appropriate estoppel certificates as may be required by Bank in connection with any such renewals, modifications and extensions.

7. Lessee shall not agree to any, modification, amendment or termination of the Lease without first obtaining Bank's prior written consent.

8. Lessee shall give Borrower and Bank notice of any default under the Lease on the part of Borrower and a reasonable opportunity (but not an obligation) for Bank to cure such default upon Borrower's failure to do so, not to exceed thirty (30) days, unless such default is of a nature which requires a greater length of time to cure, and then Bank shall be permitted such additional time as is reasonably necessary to effect such cure, provided Bank diligently and continuously proceeds to cure such default.

9. Any notice required or desired to be given under this Agreement shall be in writing and shall be deemed given (a) upon receipt if delivered personally; (b) two (2) business days after being deposited into the U.S. mail if being sent by certified or registered mail, return receipt requested, postage prepaid; or (c) one (1) business day after being sent by reputable overnight air courier service with guaranteed overnight delivery, and addressed as follows:

If to Bank:

Southern Community Bank and Trust
4605 Country Club Road
Winston-Salem, NC 27104
Attention: T. Brent Kirby

With Copy to:

Blanco Tackabery & Matamoros, P.A.
110 S. Stratford Road, Suite 500
Winston-Salem, NC 27104
Attention: George E. Hollodick

If to Lessee:

Z. Smith Reynolds Foundation
147 South Cherry Street, Suite 200
Winston-Salem, NC 27101-5287
Attention: ~~Joseph Crocker~~ *Leslie Winner / Executive Director* ^{ljw}

Either party, at any time and from time to time (by providing notice to the other party in the manner set forth above), may designate a different address or person, or both, to whom such notice may be sent.

10. This Agreement contains the entire understanding and agreement by and between the parties, and all prior or contemporaneous oral and written agreements or instruments are merged in this Agreement and no amendment to this Agreement shall be effective unless it is in writing and signed by the parties.

11. This Agreement shall be construed and interpreted under and governed by the laws of the State of North Carolina.

[SEPARATE SIGNATURE PAGE FOLLOWS]

**SEPARATE SIGNATURE PAGE TO
SUBORDINATION, ATTORNMENT AND
NON-DISTURBANCE AGREEMENT**

IN WITNESS WHEREOF, the Bank has caused this Agreement to be executed through its duly authorized officer as of the day and year first above written.

BANK:

SOUTHERN COMMUNITY BANK AND TRUST

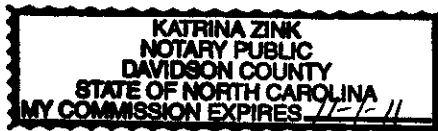
By: *Brent Kirby*
Vice Vice-President

STATE OF NORTH CAROLINA

COUNTY OF ~~FORSYTH~~ Davidson

I, Katrina Zink, a Notary Public of aforesaid county and state, certify that Brent Kirby personally came before me this day and acknowledged that (s)he is vice president of **Southern Community Bank and Trust**, and that (s)he, as vice president, being authorized to do so, voluntarily executed the foregoing on behalf of the bank.

Witness my hand and official seal, this the 3 day of April, 2008.



Katrina Zink
Notary Public
Name: Katrina Zink
Commission Expires: 11-1-2011

IN WITNESS WHEREOF, the Lessee has caused this Agreement to be duly executed by its duly authorized officer as of the day and year first above written.

LESSEE:

Z. SMITH REYNOLDS FOUNDATION, INC.,
a North Carolina non-profit corporation

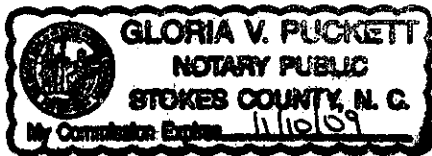
By: Leslie J. Winner
Title: Executive Director

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

I, Gloria V. Puckett, a Notary Public of aforesaid county and state, certify that Leslie J. Winner personally came before me this day and acknowledged that (s)he is Executive Director of Z. Smith Reynolds Fdn., and that (s)he, as Executive Director, being authorized to do so, voluntarily executed the foregoing.

Witness my hand and official seal, this the 4th day of April, 2008.

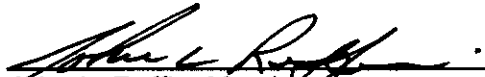



Gloria V. Puckett
Notary Public
Name: Gloria V. Puckett
Commission Expires: 11/10/09


CONSENT AND ACKNOWLEDGMENT

BORROWER:

Copper Top Ventures, LLC

By: 
 John L. Ruffin, Member

By: 
 Mark E. Fulk, Member

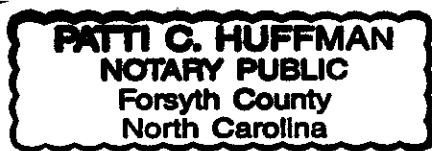
By: 
 Richard W. Redding


STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

I, PATTI C. HUFFMAN, a Notary Public of aforesaid county and state, certify that John L. Ruffin, Mark E. Fulk, and Richard W. Redding each personally came before me this day and acknowledged that they are members of **Copper Top Ventures, LLC**, and that they, as members, being authorized to do so, voluntarily executed the foregoing on behalf of the limited liability company.

Witness my hand and official seal, this the 3rd day of April, 2008.




 Notary Public
 Name: PATTI C. HUFFMAN

Commission Expires: 1-4-2011
